IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2341 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BANASKANTHA JEEP HOLDERS ASSO.

Versus

COLLECTOR AND DISTRICT MAGISTRATE

Appearance:

1. Special Civil Application No. 2341 of 2002

MR BB NAIK for Petitioner

MR LR PUJARI, AGP, for Respondent No. 1

MR HS MUNSHAW for Respondent No. 2

MR NK MAJMUDAR for Respondent No. 3-5

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 02/08/2004

ORAL JUDGEMENT

1. The grievance of the petitioner is that the

respondent No.2 - Municipality has allotted land admeasuring 8 ft. x 15 ft. to the respondents Nos. 3, 4 and 5 each for construction of cabins in an area which was earmarked for parking taxies by notification dated 3rd April 1996 near Bhavna Guest House. The notification is said to have been issued under the provisions of Section 33 of the Bombay Police Act, 1955.

2. In the affidavit-in-reply filed by the respondent - Collector, it is stated in paragraph 4 that, to regulate the traffic of Palanpur city area, the notification for no parking was published on 18-11-1999 and was finalized on 29-3-2001. It is stated that the earlier notification in respect of parking vehicles was published on 3-4-1996.

3. A copy of the final notification issued in March 2001 shows the places where parking is allowed and at the bottom, it is stated that no parking would be allowed at any other place on the public road except those mentioned in the said notification. On comparing this notification with the earlier notification dated 3-4-1996, a copy of which is at Annexure "B" to the petition, it appears that the areas mentioned in these notifications are different. It appears from the order dated 19-6-2000, at Annexure "D" to the petition, that the portion of land admeasuring 8 ft. x 15 ft. was given on lease to the respondent No.3 for eleven months only. Similar orders were made in favour of the respondents Nos. 4 and 5 also. Even the renewal is also only for the period of eleven months, as stated by the learned counsel for the Municipality.

3. On noticing that the notifications of 1996 and 2001 referred to different areas, the learned counsel for the Municipality states that the Municipality would not give on lease any portion of land which is notified for parking and therefore, if any of these cabins fall in the area notified for parking, the lease will not be renewed and no fresh lease will be granted for any cabin in any area which is notified for parking taxies. In this view of the matter, the learned counsel for the petitioner states that the petitioner does not press for this petition at this stage, without prejudice to the petitioner's right to challenge any decision of the Municipality before the Collector, if any further lease is granted or renewed contrary to the notification notifying the parking areas.

4. The petition therefore, stands disposed of as not pressed at this stage. Notice is discharged with no orders as to costs. Interim relief stands vacated.

[R.K.ABICHANDANI, J.]

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